

**COLUMBUS BOARD OF ZONING APPEALS  
123 WASHINGTON STREET  
COLUMBUS, INDIANA**

The Columbus Board of Zoning Appeals met at 6:30 p.m., February 24, 2004 in the Council Chambers, second floor of City Hall, 123 Washington Street, Columbus, Indiana for its monthly meeting.

Members Present: Pat Zeigler; Karen Dugan; Mary Ferdon; Gary Nienaber; Lou Marr, Laura Thayer, and David Fisher, alternate

Staff Present: Brian Thompson, Code Enforcement Officer; Alan Whitted, Deputy City Attorney; Thom Weintraut; Marcus Hurley, Stephanie Carr, Dept. of Code Enforcement, Sondra Bohn, Planning Dept.

Ms. Zeigler opened the meeting with a brief explanation about the Board and its responsibilities.

Proof of advertising for all cases was confirmed. The petitions and staff comments are a permanent record at the Planning Department.

Alan Whitted, Deputy City Attorney, administered the oath to all in attendance that would be speaking.

The meeting was opened for public comment.

**DOCKET NO. C/DS-03-19 (CONTINUED)  
DESIGNS BY DAUGHERTY, INC**

**Designs by Daugherty, Inc is requesting developmental standards variance to allow an enclosed dumpster to be located in front of a business. The property is located at Chestnut Street administrative subdivision Lot #1A, Columbus, IN.**

Karen Dugan asked to be excused by the board, due to conflict of interest.

Karen Dugan is excused.

Marcus Hurley reads the background for Designs by Daugherty, Inc. The property owners are preparing to construct a building addition. The structural addition has made it necessary to pursue a design that would accommodate the need for a permanent enclosed refuse container storage area. The property has three

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road frontages and no north south alleyway from which collection services can collect the refuse. The Refuse was previously stored and collected on the side of the existing building, because it was more accessible to be collected than behind the building. The proposed building addition will prohibit trucks from safely entering and exiting the drive behind the building, thus the need to relocate the storage area. The property is located at Chestnut Street Administrative subdivision Lot #1A, Columbus, IN.

Marcus presents the pictures to the staff to review.

Mark Daugherty states his name for the record.

Pat Zeigler reads a letter that was submitted on Jan 23, 2004 when the case was continued. The letter reads as follows.

In regards to the existing dumpster usage at this proposed site and the proposed enclosure the existing dumpster on site now is a 3-yard unit and is emptied three times a week. The proposed enclosure will accommodate 2-6 yard front loading units or 1-8 yard units either front or rear loaded. We have spoken with the Rumpke dispatcher and they operate their trucks 6 days per week so they are able to pick up as often as directed.

Mark Daugherty presented his case and submitted pictures.

The petitioner has not adequately demonstrated that there are little or no alternatives to enable the enclosure to conform to the standards of the Columbus Zoning Ordinance. The nonconformity may be due to proposed and collection of trash.

Meeting is opened to the public.

#### **DISCUSSION**

Mark Daugherty is asked the question if he knew for sure that there will be other businesses that will be moving next to the deli. He said that he was told that the tenants would be upscale, and that the property would be rather pricey.

Mr. Daugherty was also asked about the parking, and if he thought that the parking would be a problem with the number of people that would be visiting the complex. He did not think that would be a problem.

Meeting is now closed to the public

David Fisher makes a motion to approve **C/DS-03-19** Designs By Daugherty, Inc. on these conditions:

No structures of growth on the existing structure shall encroach into the visibility triangles. The enclosure shall remain consistent with the design of the primary structures

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on the parcel. He also stated that the unique features of the parcel with no rear access to the building would cause a hardship for any development on the property and he feels that the plan that has been presented addresses those hardships in a responsible manner.

Pat Zeigler seconded the motion.

Motion is passed 3-1

**DOCKET NO. C/DS-03-20 AND C/CU-03-11 (CONTINUED)**  
**WILLIAM BURD**

**C/DS-03-20 William Burd is requesting a developmental standards variance to encroach into a front setback and to reduce the landscape-buffering requirement.**

**C/CU-03-11 William Burd is requesting a conditional use permit to allow the operation of a retail business in an industrial district.**

William Burd and Clinton Mann state their name for the record.

Mr. Hurley read the staff report into record and he presented the staff video.

City Engineering has provided a memo stating that encroachment of 11<sup>th</sup> Street may hinder access to future development in the area.

A certified site plan will need to be submitted for final inspection of parking, landscaping, and signage prior to issuing a Zoning Compliance Certificate.

Pat Zeigler reads the memo from Steve Ruble, from the City Engineers office. The memo is dated February 10, 2004.

The City Engineers office does not support the above reference request.

**DISCUSSION:**

The use is in an existing building, which may encroach in the setback. Insufficient information was submitted to make this determination, but the petitioner has agreed to submit a certified site plan. Currently, this criterion has not been met.

Landscaping should be provided in the front yard as required by the zoning ordinance. This criterion has not been met.

The meeting was opened to the public. No one spoke.

Meeting is closed to the public.

Lou Marr made a motion to deny **C/DS-03-20**

Mary Ferdon seconded the motion that passed 3-0

Lou Marr made a motion to approve **C/CU-03-11**

To operate a retail use related to the industrial use on the property.

Conditions would be that a certified site plan would need to be presented, they must meet the landscape points as part of the conditional use. They do not need an opaque fence, but it needs to be approved by the landscaping committee.

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The findings of fact are present by staff  
1-8. Number 3, 5 and 7 has also been met.

Karen Dugan seconded the motion for approval  
C/CU-03-11 was approved unanimously.

**DOCKET NO. C/CU-03-14 & C/DS-03-22**

**Columbus Community Radio Corporation is requesting a conditional use to allow the operation of a home based business. The petitioner is requesting a developmental standards variance to allow a radio tower to exceed the permitted height limit.**

Marcus Hurley has received a call from Mitzi Graham, that there has been a medical emergency and she would like to have the case continued to a later date.

David Fisher made a motion to continue C/CU-03-14 & C/DS-03-22  
Lou Marr seconded the motion. Motion granted unanimously.

**DOCKET NO. C/DS-04-01 TIP SCOTT, ARCHITECT**

**Tip Scott, on behalf of Brands, Inc. is requesting a developmental standards variance to give relief of a transitional setback requirement. The property is located at 1425 California Street, Columbus, IN.**

Tip Scott, states his name for the record. Marcus Hurley gives the background to the staff. The request is to construct an unenclosed storage building within the transition setback requirement and for relief of the buffering requirements. Brands, Inc. has operated a lumber yard in the neighborhood for several decades.

The need has arisen for a permanent unenclosed storage area to house supplies that currently are outside storage. The use of outside storage is not permitted without screening or enclosure, but is legally non-conforming due to the use pre-existing this provision of the zoning ordinance. The property is located a 1425 California Street, Columbus, IN 47201.

**DISCUSSION:**

Discussions of the property and where it will be located is discussed with staff. Pictures are viewed. Tip Scott states that after receiving the negative staff report that he would like to work with the staff and make it better for everyone. He would be willing to give up 6 ½ feet to meet the requirements.

Hearing is open to the public. No one is there to speak on this case.

Hearing is now closed to the public

David Fisher makes a motion to approve C/DS-04-01  
with these following conditions:

Motion is to be approved as amended by the petitioner this evening

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including a 10 foot setback rather than the original proposed. Also the fencing and landscaping buffering that has been proposed including the provisional findings of facts with the stipulation that they are changed to indicate all criteria has been met by the petitioners.

Karen Dugan seconded the motion for approval.  
Motion is approved unanimously.

#### **DOCKET NO. C/CU-01 BOB SMITHERMAN CONSTRUCTION**

**Bob Smitherman is requesting a conditional use to allow the operation of a Model home.**

Mr. Smitherman states his name for the record.  
Mr. Hurley reads the staff report.

A recent change in the ordinance now allows model homes to be reviewed by the Board of Zoning Appeals as a conditional use. This was done to allow model homes to be reviewed and time limits established on an individual basis. The model requested will house one employee during the requested business hours of 12:00 p.m.- 6:00 p.m. An unspecified number of customers will be on-site.

The Board has approved variance requests in the past to allow model homes to remain for longer than the previously permitted 18 months. The Columbus Engineering Department has inspected the site in regards to traffic associated with the proposed use, and had no objections. Signage and traffic associated with the model home are the most noticeable indication of a commercial use. Typically landscaping or screening is required to adequately buffer commercial uses from residential uses.

All proposed signs and exterior lighting proposed are not compatible with the surrounding properties and their uses. A major complaint in the variance request was the flood lighting used to display the home after dark. No further site plans have been submitted for signage. Signage shall be reviewed for approval as a part of this request for conditional use. The Criteria has not been met.

The proposed use does not comply with the required setback distances, yards and other open space requirements. A certified site plan is necessary to determine that the proposed structure, signage, and landscaping will remain outside of any right-of-way, and remain in permitted areas only. This criterion has not been met.

This use will not be in harmony with the neighborhood, will create undue Noises, traffic, odors, safety or environmental hazards, or glare and will have an adverse effect on neighboring property because the proposal is not screened from adjoining properties, and will pose a noticeable change in the primary intended use of the parcel. This criterion has not been met.

Pictures are then presented. Mr. Smitherman reads his response to the findings of fact.

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Meeting was opened to the public.

David Preston speaks against the case.

Ron Rose also spoke against the case.

Meeting is closed to the public.

**DISCUSSION:**

Mr. Smitherman states that the reason they have the model home on the Cul-de-sac is because it is for safety purposes.

David Fisher stated that he does agree with number 6 and 7 that he believes that criteria for these will be met, but he feels that number 8 will still be a problem. He said that he believes that the model home will have an effect on the property value of the homes in that location. It would be more traffic but if it were to be located somewhere other than the cul-de-sac, it would be in a less dense area.

Mary Ferdon would like to know since he has not had a model home for the last couple of months and asked if that had effected the sales of the homes. Mr. Smitherman replied that he had sold a few, but that they still needed a model home.

Karen Dugan stated that she thought that it would be better for the model home to be on a through street, where the people would be anticipating more traffic. She does not think that it would not be in harmony with the neighborhood.

Mr. Smitherman disagreed. He does not think it should matter on where the model home is located. He stated that he has done what he can to meet all criteria and it is going to be a problem to move the model home, and change all the signs around. He thinks where ever he moves the model, that the neighbors will have the same kinds of complaints as they do now. Staff discusses signage issues and what can be done.

David Fisher makes a motion to deny **C/CU-04-05**, based on criteria 8 the petitioner would not be in harmony with the neighborhood and would have an adverse effect on the existing neighboring property.

Karen Dugan seconded the motion.

Motion is denied 5-1

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**DOCKET NO. C/CU-04-02 MATT WALDROP AND ROB  
MATYSKA OF THREAD BEAR FIBER ARTS STUDIO  
AND C/DS-04-02**

**Matt Waldrop and Rob Matyska of Thread Bear Fiber Arts Studio are requesting a conditional use permit to operate a home based business. Also requested is a developmental standards variance to allow a home based business to exceed the permitted floor area of dwelling.**

Matt Waldrop states his name for the record.

Marcus Hurley gives the staff report. The original intended use was a small shop in the front three rooms of the house. The petitioners have expanded the use to 1065 sq. ft. of the 1639 sq. ft. structure. Thus the need for the variance to exceed the permissible floor area coverage.

The studio is a house zoned and formerly used as a multifamily dwelling unit. The petitioners moved into the house with the intentions of using it for living space. The petitioners are seeking the conditional use permit to allow the use at its current location while they find permanent space in an appropriately zoned district. The property is located at 703 Hutchins Ave, Columbus, IN

Mr. Waldrop explains to the staff, that he they had been told incorrectly that there house was zoned in a business district. He also explained that they understand that they need to move and that at this time they have contacted several realtors but so far they have not had any luck finding a place for them to move their business. He stated that he had several leads at this time.

**DISCUSSION:**

Mr. Waldrop is asked how long he believes it will take for them to find a new place for their business. He stated that they are asking for 6 months, but they are in hopes that it will be much sooner. He also said that they had been operating there business for 6 months and that they had been told by the owner of the Cigar Shop next door that it was zoned for business.

The meeting was opened for public comment.

Dana Jackson said she supports the request.

Donald Hines is against the petition because of traffic and parking issues.

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Robert James Matyska, who is the other partner in the business stated that again, they had no idea that it was not zoned for business and they are trying their best to find another location.

Jim Powell owner of the building, stated that he did not think there was a problem with the traffic and parking issue. He said he did not see that there was any more traffic at any other time, since it was a 3 unit apartment. He said he would like to see them have time to find a proper place to move.

Michelle Jennifer also is in supports their request  
Margaret Curry and Jennifer Force were also in favor.

Pat Zeigler reads letters from the following people who are in favor of Thread Bear Fiber Arts Studio.

Betty Johnson, Kirstin J. Maguire, Lana Holden, Mariko Fujinaka, Dorothy N. McKee, Deborah Dinn, Annie Tarbusk, Tanya Hayes and Eva E. Aldrich.

Meeting was closed to the public.

Mary Ferdon makes a motion to approve **C/CU-04-02**

Based on the findings of fact, the condition would be that the petitioners would be relocated within 3 months.

The provisional Findings of Facts for 1, 2 and 8 would be met because it will be a temporary permit.

Karen Dugan seconded the motion.

Motion was approved 4-1

**FINDINGS OF FACT:**

**C/CU-03-12** Julie Ann Reid

Julie's Just Deserts - Mary Ferdon approves

Karen Dugan seconded the approval

**C/CU-03-15** Rex Banks – Mary Ferdon approves

Karen Dugan seconded the approval



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**APPROVAL OF MINUTES**

Mary Ferdon moves to approve Minutes for January 27, 2004  
Karen Dugan seconded the motion for approval

January 27, 2004 Minutes are approved.

There being no further business the meeting was adjourned.

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Patricia Zeigler, Chair

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Karen Dugan, Secretary